

### **REMARKS**

Claims 22 - 33 are now pending in the application. Minor, non-narrowing amendments to the claims have been made in order to overcome the Examiner's objections. The Examiner is respectfully requested to reconsider and withdraw the rejection in view of the amendments and remarks contained herein.

### **CLAIM OBJECTIONS**

Claims 22, 30, and 32 stand objected to because minor spelling corrections are needed. More particularly, the phrase "a least" needs to be replaced with "at least". Applicant has amended claims 22, 30, and 32 to correct this informality. Accordingly, this objection should now be moot.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 22 – 25, 27 and 30 - 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Taniguchi et al. (Taniguchi) (U.S. Pat. No. 6,099,134). This rejection is respectfully traversed.

In order for a prior art reference to qualify under 35 U.S.C. § 103(a), the reference must first qualify under 35 U.S.C. § 102. However, Applicant respectfully asserts, referring to MPEP 2136.03, that 35 U.S.C. § 102(e) is explicitly limited to certain references "filed in the United States before the invention thereof by the applicant" (emphasis added). Foreign applications' filing dates that are claimed (via 35 U.S.C. § 119(a)-(d), (f) or 365(a)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may not be used as 35 U.S.C. §

102(e) dates for prior art purposes. This includes international filing dates claimed as foreign priority dates under 35 U.S.C. § 365(a). Therefore, the foreign priority date of the reference under 35 U.S.C. § 119(a)-(d), (f), and 365 (a) cannot be used to antedate the application filing date (emphasis added). In contrast, applicant may be able to overcome the 35 U.S.C. § 102(e) rejection by proving he or she is entitled to his or her own 35 U.S.C. § 119 priority date which is earlier than the reference's U.S. filing date. *In re Hilmer*, 359 F.2d 859, 149 USPQ 480

The present application is a continuation application filed on June 29, 2000, that claims priority to U.S. Application No. 09/157,255 filed September 18, 1998, (Now U.S. Pat. No. 6,124,905) which claims priority under 35 U.S.C. § 119 to Japanese Patent Application 9-253972 filed September 18, 1997. In contrast, Taniguchi was filed in the U.S. on September 26, 1997, which is after the present application's priority date under 35 U.S.C. § 119. As mandated above, Taniguchi does not qualify as prior art under 35 U.S.C. § 102(e) and cannot be used in a rejection under 35 U.S.C. § 103(a). As such, this rejection should be obviated.

Claims 28 and 29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Taniguchi in view of Broer et al. (Broer) (U.S. Patent No. 6,359,670).

As stated above, Taniguchi does not qualify as a prior art reference under 35 U.S.C. § 102 and, therefore, cannot be used as a reference under 35 U.S.C. § 103(a). Accordingly, this rejection should be obviated.

Claims 26 and 33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Taniguchi in view of Winston et al. (Winston) (U.S. Patent No. 5,528,720).

As stated above, Taniguchi does not qualify as a prior art reference under 35 U.S.C. § 102 and, therefore, cannot be used as a reference under 35 U.S.C. § 103(a). Accordingly, this rejection should be obviated.

Therefore, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 is respectfully requested.

#### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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